

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FERMIN ALDABE

Plaintiff,

-v.-

SULLIVAN & CROMWELL LLP et al.,

Defendants.
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ORDER

23 Civ. 850 (AT) (GWG)

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

While defendants have made arguments regarding the futility of this proposed amended complaint (Docket # 23), the consideration of the futility of a proposed amendment to a pleading in the analysis under Fed. R. Civ. P. 15 is one of “discretion.” Grace v. Rosenstock, 228 F.3d 40, 53 (2d Cir. 2000). Accordingly, without ruling on the merits of the proposed second amended complaint, the motion to amend (Docket # 21) is granted. The Clerk’s Office is directed to file the proposed second amended complaint attached as pages 4-18 of Docket # 21. In light of this filing, the motion to dismiss the prior complaint (Docket # 10) is deemed withdrawn. All arguments in opposition to the merits of the second amended complaint are preserved as to any future dispositive motion.

SO ORDERED.

Dated: March 14, 2023
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge